FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No.516/2007
(State & anr. Vs. Madhukar Shivram Bhoyar)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. S.B. Ahirkar, A.G.P. for the appellants.
Mr. S.C. Bhalerao, Adv. for the respondent.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 25th July, 2007.

Heard Shri Ahirkar, the learned A.G.P. for the appellants.

This appeal is preferred against the judgment passed by the reference Court on 2nd May, 2001 in L.A.C. No. 34/1991, enhancing the compensation payable to the respondent and granting it @ Rs. 35,000/- per hectare. The 50R land belonging to the respondent was acquired by the appellants for the purpose of extension of Gaothan. Section 4 notification was issued on 25/5/1989. Land Acquisition Officer awarded compensation @ Rs. 11,000/- per hectare. The respondent claimed the compensation @ Rs. 50,000/- per hectare. The reference Court, however, enhanced the compensation by granting it @ Rs. 35,000/- per hectare. The judgment of the reference Court is challenged in this first appeal.

I have perused the judgment passed by the reference Court. There was evidence on record to show that the land comprises of black and fertile soil. The respondent produced cotton and tur from the said land and the potential value and the productivity of the land was also extremely good. According to the claimant, the adjoining lands were acquired under the provisions of the Coal Bearing Act in the year 1987 i.e. 2 years prior to the Section 4 notification in this case and the claimants therein were granted the compensation @ Rs. 24,500/- per hectare.

The respondent examined himself. The appellants, however, did not examine any witness on their behalf. The respondent placed the Award passed in the Land Acquisition Case No.18/1991 on record which shows that the reference Court had granted the compensation to the claimants therein @ Rs. 30,000/- per hectare. Though the claimants tendered evidence to show that he took crops and yields from the land which fetched net income of Rs. 20,000/- per acre, the reference Court rightly disbelieved the evidence to the aforesaid extent because the claimant had not file any documentary evidence to support the aforesaid statement in his oral evidence. The reference Court, therefore, relied on the judgment passed by the reference Court in Land Acquisition Case No. 18/1991 which pertains to

village Amlon which was situated merely at a distance of 2-3 kilometers from the acquired land. The reference Court considered the fact that village Amlon is a very small village whereas the village Kosara where the acquired land was situated, is a large village and the land in village Kosara was having more potential value than the land situated in Amlon. The reference Court further considered the fact that there is Gram Panchayat School and Post Office situated in village Kosara. The Court then considered the documentary evidence in the form of 7/12 extracts which showed that the respondent/claimant was taking crops of cotton and tur from the acquired land. The land was adjoining to the village and was known as Gaokhori land. The reference Court, therefore, on an appreciation of the evidence tendered by the respondent on record, determined the marked value of the land at Rs. 35,000/- per hectare. The Awards passed in the land acquisition cases under the Coal Bearing Act and the Land Acquisition Act were considered by the reference Court along with the other evidence pertaining to the quality, fertility and the potential value of the land to determine the compensation. The approach of the reference Court is extremely just and reasonable. The compensation also appears to be just and reasonable and not on the higher side.

For the reasons aforesaid, the first appeal is dismissed with no order as to costs.

JUDGE

RMP